

With respect to independent claims 1, 14 and 27, Leung teaches "collecting statistics on database objects ... determining characteristics of the database objects ... determining actions to be performed on the database objects ... automatically determining a schedule for performing the actions ... performing the actions ... confirming results of the performed actions ... and ... monitoring the results of the performed actions ..." (See Office Action dated 4 August 2003 at pages 2-3.)

With respect to independent claims 1, 14 and 27, Agarwal teaches "collecting statistics relating to operation of a database ... determining characteristics of the database objects ... determining actions to be performed on the database objects based on the characteristics of the database objects ... automatically determining a schedule for performing the actions on the database objects ... performing the actions on the database objects based on the schedule ... confirming the performing the actions on the database objects ... and ... monitoring results of the performing the actions on the database objects ..." (See Office Action dated 4 August 2003 at pages 6-7.)

1. Legal Principles

As a legal matter, "[f]or a prior art reference to anticipate in terms of 35 U.S.C. 102, every element of the claimed invention must be identically shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677 (Fed. Cir. 1988). Further, the "identical invention must be shown in as complete detail as is contained in the patent claim" (*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir.), *cert. denied*, 493 US 853 (1989)) and the "elements must be arranged as in the claim under review" (*In re Bond*, 910 F.2d 831, 832 Fed. Cir. 1990), *reh'g denied*, 1990 US App. LEXIS 19971 (Fed. Cir. 1990)). See also M.P.E.P. 2131.

2. Discussion and Analysis of Leung

Leung appears directed to a method and apparatus for "monitoring performance of a parallel database" (Abstract) for the purposes of increasing "the precision of monitoring results ... [and] ... to return the best results possible within a defined time limit" (col. 2, lines 25-30). More particularly, Leung describes a monitoring system that "uses dynamic grouping and sequential sampling to monitor parallel databases" (col. 6, lines 2-3) – "collecting data from as many of the monitored nodes as possible" within a specified time limit (col. 5, lines 21-55; and col. 8, lines 41-55) to generate a single performance value for the user (col. 4, lines 54-56).

Thus, Leung is directed solely to monitoring a parallel database. Contrary to the Examiner's allegations, no where does Leung teach or describe "determining actions to

be performed" on monitored database objects *or* "automatically determining a schedule" for performing the determined actions *or* "performing the actions" *or* "confirming the perform[ance of] the actions" *or* "monitoring results of the" performed actions as recited in each of independent claims 1, 14 and 27.

Because Leung fails to teach (or even suggest) each and every claimed element, the Examiner has failed to make a legitimate anticipatory rejection under section 102. Accordingly, Assignee respectfully requests that this rejection be withdrawn and claims 1, 14 and 27 passed to allowance.

For at least the same reasons, claims 2-13, 15-26 and 28-39 are not anticipated by Leung. As with the independent claims from which they depend (claims 1, 14 and 27 respectively), Assignee respectfully requests that this rejection be withdrawn and claims 2-13, 15-26 and 28-39 passed to allowance.

3. Discussion and Analysis of Agarwal

Agarwal appears directed to a method for "optimizing the execution of database statements involving non-system supplied objects" (Abstract; col. 3, lines 31-45; col. 4, lines 8-10). Specifically, Agarwal describes an optimization process wherein an "optimizer receives as input a SQL statement" where after the optimizer generates one or more possible execution plans in response to ... the ... SQL statement" (col. 4, lines 21-25 and FIG. 1). "The optimizer then computes the estimated cost for each of the generated execution plans ... [selecting] ... for execution the execution plan having the lowest relative cost" (col. 4, lines 29-36 and FIG. 1; see also col. 4, lines 37-46 and FIG. 2). Agarwal further describes a technique to collect statistics *not* on database objects, but on "optimizer object types" where optimizer objects define functions which may be used by the optimizer to estimate the cost associated with a SQL statement before it is executed (see col. 5, lines 61-66 and FIG. 3). Agarwal explicitly teaches that such optimizer objects are not part of the database, but rather part of the optimizer (col. 4, lines 62-67; col. 5, lines 12-13; FIG. 2). Thus, the technical subject matter of Agarwal (SQL optimization) is significantly different from that of the claimed invention ("database management").

It is further noted that, notwithstanding the Examiner's allegation to the contrary, Agarwal does not appear to teach, describe or even suggest the recited acts of (1) "automatically determining a schedule for performing the actions on the database objects," (2) "performing the actions on the database objects based on the schedule," (3) confirming the performing [of] the actions on the database objects" or (4) "monitoring results of the performing the actions on the database objects." With respect to the acts of "automatically determining a schedule," nowhere in the Examiner's cited passages does Agarwal teach, describe or even suggest using or creating an execution schedule – Agarwal is totally silent as to this recited element. (The term "schedule" and its synonyms catalog, roster, agenda, docket, timetable and calendar are not found in Agarwal. Agarwal does discuss in passing periodically acquiring statistics concerning characteristics of an object. However, this does not appear to be related to, nor take place in conjunction with or because of, execution of a selected execution plan — see col. 6, lines 15-22.) Void any discussion by Agarwal, it is presumed that the selected (optimized) "execution plan" is executed immediately. Having failed to provide any teaching, need or desire to determine a schedule, Agarwal cannot support the Examiner's further allegation that actions in accordance with Agarwal (i.e., execution of the optimized execution plan) are performed according to a schedule as recited. With respect to the acts of "confirming" and "monitoring," again the passages cited by the Examiner are totally void of any recitation of either confirming the execution of a selected execution plan or the monitoring of the execution plan once initiated. All discussion in Agarwal relating to processing a SQL statement appears to take place before the SQL statement is executed in accordance with its selected (optimized) execution plan. Again, Agarwal is totally silent on confirming and monitoring a selected execution plan.

Thus, Agarwal is directed solely to identifying and selecting an optimal execution plan for a proffered SQL statement – no where does Agarwal teach or describe "automatically determining a schedule" for performing one or more determined actions or "performing the actions ... based on the schedule" or "confirming the perform[ance]

of] the actions" or "monitoring results of the" performed actions as recited in each of independent claims 1, 14 and 27.

Because Agarwal fails to teach (or even suggest) each and every claimed element, the Examiner has failed to make a legitimate anticipatory rejection under section 102. Accordingly, Assignee respectfully requests that this rejection be withdrawn and claims 1, 14 and 27 passed to allowance.

For at least the same reasons, claims 2-13, 15-26 and 28-39 are not anticipated by Agarwal. As with the independent claims from which they depend (claims 1, 14 and 27 respectively), Assignee respectfully requests that this rejection be withdrawn and claims 2-13, 15-26 and 28-39 passed to allowance.

Conclusions

Reconsideration of the pending claims 1 through 39 in light of the above remarks is respectfully requested. If, after considering this Reply, the Examiner believes that a telephone conference would be beneficial towards advancing this case to allowance, the Examiner is strongly encouraged to contact the undersigned attorney at the number listed.

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Date


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